



February 20, 2019

The Honorable George C. Hanks, Jr.
United States District Court for the
Southern District of Texas
United States Courthouse
601 Rosenberg, Sixth Floor
Galveston, Texas 77550

Re: *MOVE Texas Civic Fund et al. v. Whitley et al.*; Case No. 3:19-cv-00041: Update
Regarding Possible Transfer

Dear Judge Hanks:

We write to provide the Court an update on our attempts to meet and confer with counsel regarding our proposed conditions for transfer to the Western District. Although most parties agreed to representations that are acceptable to Plaintiffs, we have received no assurances to date from two of the County Defendants that they will defer any removals while the preliminary injunction motion is litigated before Judge Biery. If not for that, and based on the representations made by the other parties, Plaintiffs would not oppose transfer to the Western District. We note specifically each party's stated position below following the Plaintiffs' proposal for each.

Plaintiffs' Proposal 1. In the event of a transfer, counsel for all Defendants agree not to oppose the record remaining open on the current preliminary injunction hearing before Judge Biery in order for Plaintiffs in the current case to present argument and evidence.

State Defendants' Position: Counsel for the State Defendants notes that the preliminary injunction hearing before Judge Biery did not end today, and that it is scheduled to continue on either Friday or Monday, depending on whether this Court's hearing goes forward on Friday. If this case is transferred to Judge Biery, counsel for the State Defendants do not object to Plaintiffs' counsel appearing and arguing at that preliminary injunction hearing.

All Counties' Position: The Counties agree to the above proposal, so long as Plaintiffs also agree not to oppose the record remaining open. Plaintiffs so agree.

Plaintiffs' Proposal 2. County Defendants agree not to take any action to cancel voter registrations based on the Notices that have been sent to individuals on the basis of the Secretary of State's voter purge list and to not send any additional Notices on the basis of the list. This relief would apply until a decision is reached on Plaintiffs' request for preliminary relief.

Galveston County's Position: Counsel for Galveston County agrees to the above proposal, with the specification that "the list" referred to is "the voter purge list" previously mentioned. Plaintiffs agree.

Remaining Counties' Position: Counsel for the remaining counties represent that they have been able to contact five of the seven remaining counties, and those counties have already sent or are in the process of sending out follow-up letters to any individual to whom they have sent a Notice based on the Secretary of State's Advisory No. 2019-02 advising them that they do not need to take any further action and that they will not be removed from the rolls. Counsel for the remaining counties, however, represent that these actions were not taken as part of an agreement with the Plaintiffs and may have already been in the process prior to today's hearing and of the County's own volition. Counsel is continuing to attempt to contact the remaining two counties. Counsel further requested that it be clarified that the Voter Purge List refers to the List of Individuals referenced in and accompanying Election Advisory 2019-02.

Plaintiffs' Proposal 3. Defendant Secretary of State agrees to issue an advisory to all counties to abstain from removing any individual from their voter rolls who was sent a Notice without the County conducting any additional independent investigation.

State Defendants: The State Defendants will not accept this proposal.

Because two of the counties have not yet agreed to the second proposal, voters in those counties will still face removal starting February 27, 2019, in light of the uncertainties about how quickly Judge Biery will be able to act on the motion to transfer, and the accompanying motion for relief against the County Defendants. As we noted in our call this morning, none of the County Defendants in the case before this court is currently a defendant in the case being heard by Judge Biery.

Respectfully,

Andre Segura (Attorney-in-Charge)
Thomas Buser-Clancy
Edgar Saldivar
Brian Klosterboer
American Civil Liberties Union Foundation of Texas

Mimi Marziani***
Rebecca Harrison Stevens
Joaquin Gonzalez***
Texas Civil Rights Project

Chiraag Bains* †
Stuart C. Naifeh*
Brenda Wright*
Dēmos

Jon Greenbaum*
Ezra D. Rosenberg*
Brendan B. Downes*
Lawyers' Committee for Civil Rights Under Law

Sophia Lin Lakin*
Dale E. Ho*
American Civil Liberties Union

ATTORNEYS FOR PLAINTIFFS

* Admitted pro hac vice

** Pro hac vice application forthcoming

*** Pro hac vice application pending

† Admitted in Massachusetts, not D.C.; practice consistent with D.C. App. R. 49(c)(3).

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was served upon defense counsel via this Court's ECF system.

/s/Andre Segura
Andre Segura